IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

Bail Appl..No. 3718 of 2007()

CRIME NO. 108/07 OF POTHENCODE POLICE STATION

PETITIONER/ACCUSED:

S.SATHEESHAN NAIR, S/O.N.SUKUMARAN NAIR,
MANIMANGALAM, SANTHIGIRI P.O. POTHENCODE.

BY ADV. SRI.M.SREEKUMAR

RESPONDENTS: STATE AND COMPLAINANT:

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1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
POTHENCODE POLICE STATION,THIRUVANANTHAPURAM DIST.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 3718 of 2007

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Dated this the 20th day of June, 2007

O R D E R

The petitioner is the brother-in-law of the victim, who has allegedly been attacked by a group of persons. The victim's vehicle was hired and he was taken to a place where at the instance of the hirer the vehicle was stopped and thereupon a group of persons attacked the victim. Police is left clueless. The defacto complaint is also not able to identify the miscreants. Investigation is in progress. At that stage, the petitioner has come before this Court with this application for anticipatory bail. He apprehends that the police may arrest him as an accused in the crime.

2. The learned Prosecutor submits that till now the petitioner has not been arrayed as an accused. But the possibility of his being arrayed as an accused cannot be ruled out. The learned Prosecutor submits that the police is groping in the dark unable to get specific clues about the persons responsible for the crime. The possibility of the petitioner having schemed the attack on account of his animosity with the victim cannot be ruled out at this stage. A proper

investigation shall be carried out. He will be arrayed as an accused in the case, if necessary.

3. Having considered all the relevant inputs, I am not persuaded to agree that this is a fit case where the extra ordinary equitable discretion under Section 438 Cr.P.C. can or ought to be invoked. I have no reason to assume that the police will not conduct a fair and proper investigation. It is not proper or necessary to permit the petitioner to be armed with an order of anticipatory bail as such order would certainly impede the proper progress of the investigation in the case.

4. This application is hence dismissed.

(R. BASANT)
Judge

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